

JUL 31 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

CC Docket #96-98
~~CCB/CPD 97-30~~

In the Matter of)

Request By ALTS for Clarification)
Of The Commission's Rules Regarding)
Reciprocal Compensation For Information)
Service Provider Traffic)

CCB/CPD 97-30

REPLY COMMENTS OF ICG TELECOM GROUP, INC.

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To: The Commission

REPLY COMMENTS OF ICG TELECOM GROUP, INC.

ICG Telecom Group, Inc., hereby files its reply comments in the above-captioned proceeding. ICG is the third largest facilities based competitive local exchange carrier ("CLEC") in the United States. Using fiber optics and advanced communications technology, ICG currently operates networks in 22 states, including a significant presence in major metropolitan areas of California, Colorado, and the Ohio Valley. ICG provides services both to carriers and to end users, and increasingly offers switched as well as dedicated services to its customers. With the emergence of new competitive opportunities under the Telecommunications Act of 1996, ICG is seeking to expand its offerings of local exchange and exchange access services.

ICG endorses the Association for Local Telecommunications Services' ("ALTS") request for clarification¹ and the views expressed by ALTS. ALTS is clearly correct that, under the Commission's so-called "ISP Rule,"² the incumbent local exchange carriers ("ILEC"s) have long treated exchange traffic to information service providers ("ISP's") as governed by tariffs covering local traffic. *Id.* at 2. The ILECs treated this traffic as local for the exchange of traffic and other purposes, including reciprocal compensation, until CLECs began to serve ISPs. As ICG is informed, the ILECs continue to treat this traffic as "local" as between adjacent ILECs but discriminatorily seek to deny such treatment to CLECs.

There can be no justification for this discrimination. As ALTS points out, nothing in the Commission's Local Interconnection Order³ in any manner affected the treatment of ISP traffic or the ISP Rule. Nonetheless, the ILECs have, as recounted in the June 20 Request, contrived a series of artificial and erroneous arguments about why they should not be required to pay reciprocal compensation on ISP traffic. The June 20 Request and the reply comments submitted by ALTS' in this matter totally refute the ILECs' arguments. ICG fully endorses ALTS' views and will not burden the record by repeating them here.

ICG would add that there is heightened urgency for Commission action to grant the June 20 Request and declare that ISP traffic is subject to reciprocal compensation.

¹ Letter to Ms. Regina M. Keeney from Richard J. Metzger (hereafter "June 20 Request").

² See, e.g., MTS and WATS Market Structure, 97 FCC 2d 682, 715 (1983); Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers, 3 FCC Rcd 2631, 2633 (1988).

³ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 15 FCC Rcd 15499 (1996).

ICG is encountering the refusal by ILECs to pay compensation for traffic from an ILEC's network to ISP platforms on ICG's network within the ILEC's local calling area because of the legal uncertainty about whether reciprocal compensation applies to this traffic. Further, ICG is in active discussions with other ILECs in contemplation of the need to establish revised interconnection arrangements. The existence of the current legal controversy over the treatment of reciprocal compensation is interfering with parties' ability to reach agreement. The Commission should issue a ruling "terminating [this] controversy [and] removing uncertainty" to eliminate this extra and unnecessary source of conflict. 47 C.F.R. § 1.2.

Wherefore, the Commission should grant the June 20 Request and declare that traffic originating on an ILEC's network and directed to an ISP's platform on a CLEC network within a local exchange area is subject to reciprocal compensation.

Dated: July 31, 1997

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